

which have revealed that whether won or lost, an affirmative legal action has the advantage of stating the true nature of the issues, sometimes galvanizing the community to an appropriate political response, and more often than not slowing the government and forcing it to reappraise its plans for criminal prosecution. Moreover, to the extent that steady pressure is put in the direction of affirmative litigation, the Supreme Court of the United States is increasingly responding with recognition of the positive role of the federal courts in protecting rights under the federal Constitution. At this moment there are a number of important cases* from different sections of the country raising a broad range of issues, in which the Supreme Court has accepted jurisdiction of suits seeking to enjoin prosecutions under vague and/or over-broad statutes. This was unheard of and undreamed of three years ago, prior to *Dombrowski v. Pfister*, 380 U.S. 479 (1965).

While *Dombrowski* opened a vast new perspective for the assertion of First Amendment rights, the bold ruling of the Supreme Court in that case has been subject to erosion in certain subsequent instances. *Dombrowski* held that injunctive and declaratory relief were appropriate where irreparable injury to expressional rights would result from prosecutions under statutes, overbroad and vague on their face, limiting expression, or where prosecutions were commenced in bad faith for purposes of discouraging civil liberties activity. While there has been no stepping back from the first standard, where facially unconstitutional statutes form the basis of prosecution, there has been backsliding to some extent where "harassing prosecution" is charged. In *Cameron v. Johnson*, 390 U.S. 611 (1967), LAW CENTER attorneys brought an injunctive and declaratory action against prosecutions under the Mississippi anti-obstruction of public buildings act. The Supreme Court affirmed a lower court's ruling that the statute was valid on its face and, despite overwhelming circumstances to the contrary, ruled that the prosecution was not "in bad faith", 390 U.S. at 619, because the cases were being pressed to trial (rather than simply dropped after the "chilling effect" of arrests set in) and there was at least a shred of evidence to support the charges. This "presumption of good faith" test established in *Cameron* will make affirmative litigation much more difficult in the area of harassing prosecutions, especially where the statute charged is not a facially invalid act regulating expression.

* *Gunn v. University Committee to End the War in Vietnam*, No. 262, Oct. Term, 1968; *Harris v. Younger*, No. 162, Oct. Term, 1968; *Samuels v. Mackell*, No. 580, Oct. Term, 1968.

The *Dombrowski* remedy has thus been weakened as to harassing prosecutions and there has also been an escalation of charges and a change in the type of charge brought to halt expressional activity.

The progeny of the *Dombrowski* case initially were situations in which, in retaliation for engaging in protected First Amendment expression, citizens were arrested and charged with use of offensive language, parading without a permit, obstructing sidewalks, etc. Such minor charges are less often encountered now. For example, in *Nichols v. Vance*, 293 F. Supp. 680 (1968), five black college students were arrested and charged with riot and murder in the aftermath of an attack by the police of Houston, Texas, on Texas Southern University Campus, during which a policeman was killed. One of the five, Floyd Nichols, was concededly many miles from Houston at the time of the shooting but was charged with murder under the Texas riot act which provides that one who instigates a riot is responsible for all acts occurring therein. It was literally asserted that because Nichols had been a member of the Student Nonviolent Coordinating Committee and months prior to the shooting had spoken on campus urging student activity for better school conditions, Nichols had "caused" the riot months hence and was responsible for the death of the policeman. In short, a new "speech-murder" doctrine has been developed by the Texas riot statute. The LAW CENTER was involved in an action to enjoin the prosecution under that statute and to declare it unconstitutional.

Despite numerous public and recorded representations by the State that Nichols might be tried under the riot statute, the three-judge federal court refused to rule on the act's constitutionality, holding that Nichols could be tried as an accomplice or an accessory to a murder and the riot statute would not be necessary. An appeal to the Supreme Court of the United States is being prepared.

Apart from charges of murder or sedition as a "punishment" for outspoken advocacy of freedom and peace, there is the now growing number of cases in which felony charges for "riot" have been filed. In *Brooks v. Briley*, 274 F. Supp. 538 (1967), aff'd 88 S. Ct. 1671 (1968), a three-judge federal court abstained from determining the constitutionality of the Tennessee riot statute and certain other acts. The Supreme Court affirmed that decision. Even though technically the affirmative case was lost, the prosecutions have not moved ahead. The value of effectively defeating prosecutions by the passage of time, coupled with a vigorous affirmative attack on the statutes involved, cannot be too strongly emphasized. Whereas it has long been known among prosecutors that the value of protracted prosecutions may be fatiguing to the civil rights advocate it has only laterly become known among civil rights attorneys that an affirmative and protracted fight on the statute and the framing of the issues in terms of the First Amendment in a federal forum may, as noted earlier, not only provide an opportunity for stating the real issues but may also stop the prosecution altogether. This was the case in *Brooks* and in *Cameron*, as well as in numerous cases discussed below.

Lewis v. Daley, 280 F. Supp. 929 (1968), now on cross appeals to the Supreme Court, the Illinois mob action, intimidation and resisting police officer statutes and two Chicago ordinances were challenged in litigation in which the LAW CENTER cooperated with local counsel. The District Court severed the state statutes from the city ordinances, holding only the former appropriate for three-judge court consideration. The three-judge court held the mob action statute partially invalid and the resisting an officer statute and the intimidation statute valid. The single district judge held the Chicago disorderly conduct ordinance and the resisting arrest ordinance invalid. Both sides took appeals from these decisions to the Supreme Court, which has agreed to review them.

Dawkins v. Green, No. 26448 (U.S.C.A. 5), arose out of a fire-bombing in Gainesville, Florida which led to the arrest of certain SNCC leaders and their supporters. They were jailed with bonds set so high as to have kept them incarcerated for several weeks. The LAW CENTER assisted in the filing of a suit challenging both the statutes under which charges were brought and the arrests themselves as being politically motivated and without any support in fact. The suit was dismissed by the District Court without even an evidentiary hearing to determine, in *Cameron* terms, whether there was a "shred" of evidence to support the charges. An appeal is pending in the Court of Appeals for the Fifth Circuit.

Sellers v. Pendarvis, (C.A. No. 68-313, U.S.D.C., District of South Carolina, Charleston Division), is a suit to enjoin South Carolina law enforcement officials from violence, harassment and intimidation of students at South Carolina State College (a black state college) and to put the local police department into receivership in the wake of the shooting of 33 students during demonstrations to desegregate a bowling alley. Three students were killed. A hearing held in November was continued by the court so plaintiffs could determine whether the Justice Department would participate in further hearings. This was the first public airing of the "Orangeburg massacre". Since the hearing, the Justice Department has named nine state patrolmen in a criminal information on charges growing out of this incident. This action, like the others described in this category, asserts the right of citizens — here students — to exercise their First Amendment rights free from state interference. The unique element of this action lies in the remedy requested where, due to extraordinary and uncontrolled police excesses, students were killed during the Orangeburg incident. Thus among those remedies prayed is that the local police be put under the control of a federal receiver (analogous to a bankruptcy receiver) capable of controlling them. The LAW CENTER is working with local counsel in this case. The same relief was once previously requested in *Kidd v. Addonizio*, a suit arising out of the Newark, New Jersey, disturbances of 1967. That suit is still pending; discovery has been extensive and is still underway.

Black People's Unity Movement (BPUM) v. Pierce, is a federal action in Camden, New Jersey, to enjoin riot prosecutions based on protected First Amendment conduct of the BPUM. Depositions are in progress.

In *Gunn v. University Committee to End the War in Vietnam*, No. 269, Oct. Term, 1968, a suit was brought to enjoin the prosecution of several picketers who, upon silently carrying protest signs onto Ft. Hood during a speech by President Johnson, were attacked by the servicemen and charged under the Texas loud and offensive language statute. A federal district court in Texas declared the statute unconstitutional and enjoined the prosecutions. The State appealed and the Supreme Court of the United States agreed to review the case. No decision has yet been rendered.

In *di Suvero v. Imperiale*, No. 395-68 (U.S.D.C., Dist. of N. J.) the LAW CENTER participated actively in responding to an attack upon an attorney who as director of the New Jersey Civil Liberties Union had worked quite closely with the LAW CENTER during 1967-68. The attorney was charged with abusive language, assaulting a picketer, threatening a police officer, and resisting arrest. The charges grew out of a white vigilante picketline, in which off-duty Newark police participated, in front of a Civil Liberties Union meeting. A federal action was filed alleging that the charges were wholly without basis in fact and purely for the sake of harassment and to discourage attorneys undertaking difficult civil liberties cases. While the federal judge refused to grant temporary injunctive relief, the proceeding had an enormous impact upon the prosecution, compelling the county prosecutor to conduct a grand jury investigation of the conduct of any vigilante groups. Perjury prosecutions are being urged

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against several police officers who testified in the federal action. LAW CENTER attorneys are also representing a witness in the *di Suvero* action who has been harassed by the police since testifying for the plaintiffs.

Wright v. Montgomery, No. 26314 (U.S.C.A. 5), which grew out of the 1965 Selma-to-Montgomery March, continues in the courts. The demonstrators were charged with disorderly conduct, loitering, and disobedience to an officer. An affirmative action to declare those statutes invalid was brought. The Fifth Circuit Court of Appeals affirmed a district court decision that the statutes are not facially unconstitutional. Further appeals are being considered.

The case of *Jeanette Rankin Brigade v. Chief of the Capitol Police*, No. 21566 (U.S.C.A., D.C. Cir.), was brought by a group of women who were prohibited by statute from parading, standing, or moving in processions or assemblages on the Capitol grounds or from displaying therein any flag, banner or device designed or adapted to bring into public notice any party, organization or movement. 40 U.S.C. 1939. Rather than incur arrest, the women did not violate the interdiction of the statute but changed their route of silent march to avoid its proscription. An action challenging the statute was brought in the District of Columbia and a decision is awaited from the District of Columbia Court of Appeals.

Bick v. Mitchell, C.A. No. 2856-68 (U.S.D.C., Dist. of Col.), is another action filed prior to arrest and incarceration. This suit, brought as a class action by members of SNCC, Students for a Democratic Society, and the Communist Party, among others, seeks a declaratory judgment against Title II of the McCarran Act which allows for detention in concentration camps of persons who *probably* will engage in, or who *probably* will conspire with others to engage in sabotage or espionage during war or an insurrection. A motion to dismiss the action for lack of justiciability has been filed by the Government.

The Commonwealth of Kentucky in *McSurely v. Ratliff*, 282 F. Supp. 848 (E.D. Ky. 1967), had arrested several employees of the Southern Conference Educational Fund and the Office of Economic Opportunity, charging them with sedition for their work among the poor people in the South. When making the arrests, the State Police seized all the books, papers and files of those arrested, a factual setting very similar to *Dombrowski v. Pfister*. A suit brought by LAW CENTER attorneys to enjoin the sedition prosecutions was successful and the Kentucky sedition statute was declared unconstitutional. Several new developments have grown out of the seizure of the documents and those events are discussed in Section VII of the docket report.

II. Defense Of Persons Prosecuted For Political Dissidence

There have been a number of cases in which LAW CENTER attorneys have undertaken the defense of persons facing criminal prosecution for a variety of offenses, where the prosecution appeared to be rooted in the political dissidence of the defendants.

H. Rap Brown was charged in Louisiana with the virtually unknown federal crime of transporting a firearm in interstate commerce while under indictment. The elements of this crime do not in any degree require that the transportation be clandestine or that the firearm be used. The statute was enacted several decades ago as a means of imprisoning suspected organized crime figures. Brown was defended in his criminal trial by attorneys associated with the LAW CENTER when his suit to enjoin the prosecution failed. He was acquitted on one count and convicted on one and was given the maximum penalty: Five years imprisonment and a \$2,000 fine. The case is now on appeal to the Fifth Circuit.

A plethora of litigation has developed around Reies Tijerina and the Alianza, who are making claims on behalf of heirs to certain Spanish land grants in New Mexico, and the LAW CENTER attorneys have been intensively involved in some of these matters. In November the Tenth Circuit Court of Appeals heard argument regarding the federal conviction of Tijerina and others charged with assaulting federal officers. No decision has been announced.

Beginning in November, the State trials, in which Tijerina was charged with kidnapping and assault on a Court House, were commenced. Tijerina was to have been tried with a group of his associates in connection with the alleged raid on the Tierra Amarillo Court House in June, 1967. The court severed the Tijerina case from that of the other defendants and a few days thereafter Tijerina decided that he would act as his own counsel. The court had assigned counsel, including a well-known civil rights lawyer, to work with him, and another excellent attorney had volunteered his services. Tijerina actually handled the examination and cross-examination of witnesses and the closing argument before the jury.

Tijerina's self-defense proved to be an unusual demonstration of two propositions:

- 1) The extraordinary impact of self-defense by a political defendant who, in the words of a local newspaper, "examined in the spirit of Clarence Darrow."
- 2) The main defense of Tijerina was that he and his associates were conducting a citizen's arrest. The court gave specific instructions to the effect that the jury might consider that in proceeding to the Court House Tijerina and his group were merely trying to effect a citizen's arrest of the District Attorney, who had grossly violated the rights of citizens in that he had unlawfully arrested them.

The contempt case against Tijerina, a case which raises important questions as to the power of the courts to prohibit defendants — not police or prosecutors — from publicizing their cases, is scheduled to be argued in January, 1969.

III. Decentralization And Quality Education

Brown v. Board of Education, 347 U.S. 483 (1954), forged the great constitutional principle requiring integration in public education. The failure of enforcement throughout the country has been matched by a growing recognition that integration does not begin to meet the massive problems of under-education of blacks in urban areas. Thus, the landmark case of *Hobson v. Hansen*, 265 F. Supp. 902 (1967), in which the LAW CENTER was involved, was the next step. *Hobson* holds that the schools in the District of Columbia, where the population is over 60% non-white, must begin to provide quality, if not integrated, education. This requires putting well-paid and competent teachers and administrators in predominantly black and poor schools, providing sufficient services (guidance counselors, nurses, art and music teachers, etc.), decent facilities, and meaningful curricula, i.e., allowing poor and black students to take college preparatory courses where their ability would so permit. Judge Skelly Wright ruled that *de facto* segregation with resultant inferior educational opportunity was unconstitutional. His decision has been upheld in the District of Columbia Court of Appeals.

Based upon the *Hobson* decision, the staff of the LAW CENTER undertook the preparation of litigation to meet the problems of various failures of the educational system for Northern black communities. In the midst of that work, the CENTER was asked to step into the critical legal questions which were emerging in the New York City educational crisis.

In attempting to provide quality education for ghetto children, New York City and State have adopted a decentralization program which put into community hands a degree of control of the school system. The powers were limited and not too well defined. The plan established 33 districts including the three ghetto school districts. The blurring of the lines of responsibility in the plan, plus strong resistance to it by the previously solidly entrenched Central Board of Education, the teachers union and the Superintendent of Schools, have led to difficulties of enormous complexity. The three teacher strikes in the Fall of 1968 manifested only a part of the continuing problems which emerge out of the effort to redistribute government power over the educational system. The LAW CENTER, as consultants and attorneys for two of the three demonstration ghetto school districts, has therefore been constantly involved in litigation and negotiation to settle the difficult problems which continue to arise. At the heart of the major issues is the effort of minority groups in urban areas to rest from large bureaucracies greater control over their lives, particularly in the area of education where there is a vast movement by blacks and Puerto Ricans to achieve equality and quality of education under both the Thirteenth and Fourteenth Amendments.

There follows a partial description of work in this field:

Oliver v. Donovan, No. 68-C-1034 (U.S.D.C., E.D., N.Y.), was an action modelled after *Hobson v. Hansen* which sought to enjoin the Board of Education, the Superintendent of Schools, and the Mayor's Office from interfering with the quality education experiment in the decentralized Ocean Hill-Brownsville District. The plaintiffs asserted as a basis for federal jurisdiction the affirmative obligations of the school system under the Thirteenth and Fourteenth Amendments to provide quality education. A factual hearing was held on the question of federal jurisdiction and the complaint was dismissed. An appeal is being taken.

Council of Supervisory Associations v. Board of Education, No. 585 (New York Court of Appeals), was an action by the C.S.A. challenging the appointment of certain demonstration school principals by the Ocean Hill-Brownsville Local Governing Board and the Central Board of Education. The challenge was initiated because those black and Puerto Rican principals chosen were appointed without regard to normal civil service procedures (which operate so as to disallow advancement of non-white school administrators). LAW CENTER attorneys intervened on behalf of the three principal-defendants prior to the hearing in the New York Court of Appeals. That court ruled that the appointments were valid experimentation to impose education by the Board of Education and ordered the principals retained in their jobs.

LAW CENTER attorneys represented four black teachers on the staff of J.H.S. 271 in Ocean Hill-Brownsville in hearings brought about by charges lodged against them by union teachers in the school. All four were exonerated and returned to their posts.

The LAW CENTER has aided the decentralized Local Governing Board of the I.S. 201 Complex and the staff of the Unit Administrator in the presentation of charges against nine teachers at P.S. 39 in Harlem. The rules and regulations for holding hearings were promulgated, the charges were investigated, and preparation is underway for hearings.

Jaffe v. Wilson, No. 119/69 (S. Ct. N.Y.), was initiated by the United Federation of Teachers to enjoin the I.S. 201 Complex from holding hearings in the above-described cases. The LAW CENTER staff has undertaken the representation of the Complex's officials. After several court appearances, the entire matter was submitted and the State Supreme Court ruled that due to technical irregularities in setting up the hearing procedures, the hearings were enjoined. The case raised many serious questions concerning the power of local school boards to exercise the important personnel function of presenting charges and trying teachers with tenure. There is also a Show Cause Order outstanding against certain I.S. 201 administrators seeking to cite them for contempt arising out of the above circumstances. A hearing was held in which LAW CENTER attorneys represented the defendants. The contempt citations were forestalled.

Wilson v. Donovan, No. 629/69 (S. Ct. N.Y.), is an action for relief in the nature of mandamus, seeking to compel the New York City Superintendent of Schools to suspend, pending hearing, the nine teachers involved in the *Jaffe* case above.

Bishop v. Golden, No. 68-C-1318 (U.S.D.C., E.D., N.Y.), was filed in federal court seeking an injunction against the trials of certain teachers, Local Governing Board members, and residents of Ocean Hill-Brownsville on charges including "obstructing governmental administration". The suit attacks the statutes under which charges were brought and alleges harassment and selective enforcement in bringing the action. It is noted that among those teachers charged are several previously exonerated in administrative hearings, *supra*, on the same facts which form the basis of the pending indictments.

Work on the problems of decentralization in New York has, since the early Fall, occupied almost the full time of two staff attorneys as well as one of the principals. If the LAW CENTER is to continue to function with this degree of intensity in this field, it will of necessity be required to seek additional staff and specialized funding for this purpose.

IV. Selective Service And Military Law

During the past year the LAW CENTER has become increasingly immersed in the problems of the draft and military service. Efforts to utilize the affirmative litigation technique in these areas of law have been very much influenced by the Supreme Court's decisions in *Oestereich v. Selective Service System*, 89 S. Ct. 414 (1968), and *Gabriel v. Clark*, 89 S. Ct. 424 (1968). *Oestereich* was a suit brought by the American Civil Liberties Union challenging the induction of a ministerial student who was declared delinquent and ordered to report for induction when he turned in his draft card to protest the Vietnam War. *Gabriel* presented a pre-induction challenge by a registrant who had been denied conscientious objector status and was facing induction as I-A, fit for immediate service. The Supreme Court held that Selective Service could not punish a minister by inducting him as Congress has declared him unequivocally exempt from service. As to the would-be conscientious objector, the Court held that he could not test the validity of his status except by way of defense to a criminal prosecution for refusal to submit to induction or by *habeas corpus* after induction, at least where the Selective Service Board had actually considered and determined the claim. (The LAW CENTER is pressing another case in the Third Circuit, *Beaty v. Avella*, seeking affirmative injunctive relief where the Board refused to consider the conscientious objector claim.) It is notable that in neither *Oestereich* nor *Gabriel* did the Court rule on the question of constitutional protection of returning a draft card or on the validity of the Selective Service delinquency regulations which facilitate punitive induction. Both of those issues are raised in the first two cases described below.

National Student Association v. General Louis Hershey, No. 21903 (U.S.C.A., D.C. Cir.), is an action brought on behalf of NSA, SDS, Campus Americans for Democratic Action, and other college groups, as well as close to two dozen college student-body presidents on behalf of the class of male citizens they represent, for the purpose of declaring the punitive and repressive policy of the Selective Service System announced by General Hershey and the Selective Service delinquency regulations implementing that policy to be in violation of the First Amendment. Decision is now pending in the Court of Appeals for the District of Columbia.

In *Bucher v. Selective Service System*, No. 17414 (U.S.C.A. 3), and action similar to *NSA v. Hershey* was brought in New Jersey on behalf of a dozen men of draft age who returned their draft cards as a protest against the war and were declared delinquent and ordered to report for induction in consequence thereof. Pending determination of the action by the Third Circuit Court of Appeals, all induction orders for the plaintiffs have been stayed.

In the case of *Tillman v. United States*, No. 25318 (U.S.C.A. 5), the Fifth Circuit affirmed the convictions of six SNCC workers in Georgia who were charged with injury to government property and with interfering with Selective Service processes when they stood at the induction center and appealed to another young black man not to report for induction. LAW CENTER attorneys assisted in the trial and appeal of the criminal charges.

DuVernay v. United States, No. 442 Misc., October Term 1968, will be heard in the Supreme Court on appeal from the Fifth Circuit affirmance of a conviction for failure to submit to induction, 394 F. 2d 979. The defendant, a black youth from Louisiana, claimed as defenses to his prosecution the unfairness and complexity of the Selective Service processing procedure and the total exclusion of black people from his draft board. The latter problem was exacerbated by the fact that one member of defendant's draft board was the local leader of the Ku Klux Klan. DuVernay was defended at trial by the President of the LAW CENTER, Benjamin E. Smith, and the LAW CENTER staff assisted in preparing the appeal to the Supreme Court.

In *Grosser v. Selective Service System*, a registrant returned his draft card in protest against the war and then demanded that his draft board issue him a new card. The board refused, declared the registrant delinquent for failure to carry his card, reclassified him from II-S to I-A, and ordered him to report for induction despite provision in the law that delinquency status may be voluntarily cured by a registrant. A suit was brought in the federal court on the registrant's behalf by LAW CENTER attorneys in cooperation with registrant's private counsel. The registrant's card was returned, along with his deferred status as a student.

The LAW CENTER participated in an *ad hoc* committee of attorneys who, in cooperation with several Puerto Rican lawyers, undertook the defense of over ninety youths charged with failure to submit to induction in Puerto Rico. The major political emphasis in draft refusal comes from the independence forces in Puerto Rico. The federal court ruled against motions challenging the illegality of conscription of Puerto Ricans who are not eligible to vote in presidential elections; jury discrimination against potential jurors who do not meet English literacy standards; and other constitutional challenges. The first trial resulted in an acquittal on the order of call issue. Michael Kennedy, a New York attorney who has worked with the *ad hoc* committee, will go to Puerto Rico for several months to work on the scene.

United States v. Deotis Taylor, Crim. No. 254-68 (U.S.D.C., Dist. of N.J.), raises issues of Selective Service procedural irregularity (failure to supply a registrant conscientious objector application forms when requested) as a defense to failure to submit to induction. Pretrial motions are awaiting argument.

A new aspect of Selective Service trial litigation was used for the first time in *United States v. Father Phillip Berrigan*, No. 34409 (Cir. Ct., Baltimore Co.). A group of nine priests and nuns were charged with destroying government property when they set napalm fires to the records at a Selective Service office in protest against the war in Vietnam. On trial the nine openly admitted their actions and pleaded no excuse; instead, they called upon the jury to "nullify" the law as being unjust in this case where the only means of protesting the war was that undertaken by defendants. The possible maximum sentences were 18 years and \$22,000 fines. The sentences given were four years for three defendants and two years for five defendants. The case posed significant questions as to the power of a jury to ignore the directives of the court and, even more concretely, the right of a lawyer to call upon a jury so to do.

The LAW CENTER filed a brief *amicus curia* for the defendants on appeal to the First Circuit in *United States v. Coffin, Spock, et al.* The brief argued First Amendment free speech and the illegality of the war in Vietnam.

V. Martial Law

Almost as a footnote to the increasingly militarist atmosphere in the country are two instances wherein the LAW CENTER has intervened in communities occupied by federal troops to accomplish the removal of those troops. *White v. Ellington* was filed in Tennessee to enjoin the Tennessee National Guard from holding "riot training" in Nashville's black ghetto. While the judge before whom the motion for a temporary restraining order was argued refused to grant the relief requested, within six hours after the hearing the Guard announced its decision not to "train" in the black community.

A similar situation arose in Wilmington, Delaware, where Guard troops had been occupying the ghetto for several months prior to commencement of an action, and immediately pulled out of the City when the suit was commenced. *Fletcher v. Terry*, (U.S.D.C., Delaware).

Fletcher and *White* are dramatic examples of the way in which law suits can be used to publicize the violation of law to such an extent that the officials yield and discontinue their illegal activities.

VI. Attorney Discipline In A Retaliative Perspective

A sudden spate of cases brought against attorneys doing aggressive civil liberties litigation presages a new area of work into which the LAW CENTER will be moving. In August 1966 *District of Columbia v. Kinoy* was begun by the District's charging the attorney with loud and boisterous conduct before the House Un-American Activities Committee solely as a result of the attorney's efforts to cross-examine a government witness who had given testimony regarding and seriously affecting his client. Numerous bar associations and law school faculties across the country filed briefs *amici curiae* in the action, upholding the right and duty of an attorney vigorously to plead his client's cause. The conviction was reversed unanimously by the Court of Appeals for the District of Columbia. *Kinoy v. District of Columbia*, 400 F. 2d 761 (1968).

In *Lefcourt v. Legal Aid Society*, No. 2678/68 (U.S.D.C., S.D., N.Y.), an attorney was fired from his job for suggesting to a fellow employee that Legal Aid advised too many indigent clients to plead guilty and for attempting to organize Legal Aid attorneys to better their own working conditions. The action alleges that the firing was purely retaliatory, having nothing to do with the attorney's competence, and asks reinstatement and damages. Pretrial proceedings are underway.

Disbarment proceedings were begun in Florida and in Kentucky against civil rights attorneys. In the Florida case, *State Bar v. Simon*, the LAW CENTER has filed a brief *amicus curia* for the respondent, alleging that the proceedings were initiated after the attorney addressed his clients (teachers) at a post-court hearing meeting and said they should appeal the judge's opinion because it was incorrect. Since the teachers were involved in a hotly contested battle with the local school system, this statement infuriated officials within the State and led to the disbarment move.

In *Kentucky Bar Association v. Taylor* the LAW CENTER has filed, as counsel for respondent, numerous motions requiring due process hearings and motions to dismiss the charges which were brought to harass the attorney. One of the charges has been dropped and hearings on those remaining have been postponed.

VII. Student Protests

The past year has seen the beginning of a whole new form of protest activity, to wit, widespread and massive campus demonstrations. Increased awareness of and interest in extra-university issues, coupled with burgeoning demands regarding the university itself, have resulted in serious confrontations between students and their society. The school community is governed by two sets of laws and it is the interaction of those two systems that leads to complicated legal problems in the aftermath of campus protests. The police are called in and criminal charges are filed. The legal response called for may be affirmative federal action or mass defense or a combination of the two. Simultaneously, school disciplinary action is begun. This too may call for affirmative injunctive action, mass defense, or both. The issue of First Amendment protection is necessarily raised and the limits of dissent must be explored. There are unique issues which are also relevant, including the extent to which the university may impose virtually arbitrary and unfettered control over students. The latter question may be differently resolved depending upon whether the university is a state or private institution. In the criminal cases an important issue which is raised is whether the student, assuming he is entitled to a jury trial, will be tried by a jury of his peers, given that virtually all juries are populated by persons at least two decades older than the defendant.

Soglin v. Kai, No. 67-C-141 (U.S.D.C., Dist. of Wis.) was one of the earliest cases, arising out of protest against the presence of Dow Chemical recruiters on the campus of the University of Wisconsin. A decision in an affirmative federal action challenging the school's privilege of disciplining students under a broad punitive rule has been handed down. The court considered the University's right to punish students for "misconduct" or "support[ing] causes by lawful means which do not disrupt the operations of the University . . ." It held that those sanctions would be impermissibly vague and over-broad if they were standards for criminal sanctions in non-university society and therefore may not be applied simply because the student was a university-citizen. The court further found that expulsion from the University is often a more severe sanction than a fine or short confinement in a non-university setting. After considering the University's role in modern society and after taking judicial notice of the University's close ties to government and industry and its quasi-municipal functioning, the court held that the University must "govern" its students within the framework of the Constitution and therefore that the constitutional doctrines of vagueness and over-breadth must be applied to standards of discipline within the University.

The court noted that expulsion from school for a semester or more is in many respects more severe punishment than a jail sentence which at the very least cannot be imposed without due process protections.

In a companion to *Soglin*, *Goldman v. Olsen*, No. 67-C-152 (U.S.D.C., W.D., Wisc.), the LAW CENTER filed an action to challenge a Wisconsin legislative investigation aimed at specific campus groups, among them SDS and the DuBois Club, and certain campus leaders who, it was asserted, were subversive elements at the University as evidenced by the role they played in organizing the anti-Dow recruiter demonstration. Subsequent to the filing of the action, the Legislature discontinued the hearings.

Warren v. Groves, No. 3483-A (U.S.D.C., Ohio), was brought to obtain the reinstatement of black students expelled from Central State University and to enjoin their prosecution on riot charges. Subsequent to the filing of the action, the students were reinstated and the charges dropped.

Columbia University was the locus of a most severe clash between students and their school. Student occupation for several days of certain university buildings led to wholesale disciplinary action by the school and criminal trespass charges by the State. In *Grossner v. Columbia University*, 287 F. Supp. 535 (1968), a restraining order was sought to enjoin both prosecution and disciplinary action. Judge Frankel in the Southern District of New York stated that the students' conduct was not protected by the First Amendment. He held that the court in fact had no jurisdiction over the action as 42 U.S.C. 1983 and 28 U.S.C. 1343, the alleged bases of jurisdiction, posited jurisdiction where civil rights were deprived under color of state law, and Columbia (unlike the University of Wisconsin) is not a state institution, despite large grants to it of federal and state funds. The motion for injunctive relief was denied and, due to altered circumstances at the school, the federal suit was withdrawn.

A similar activity with resultant disciplinary action occurred on the Brooklyn College campus and *Hutt v. Brooklyn College*, C.A. 68-C-691 (U.S.D.C., E.D., N.Y.), was filed. That action was dismissed and likewise no appeal was taken because of changed campus circumstances.

A group of professors and students were expelled from the University of Puerto Rico after a completely peaceful march to protest compulsory ROTC under a University regulation prohibiting "... within the limits of the University pickets, demonstrations, or political meetings or other activities of political proselytism." The threat of litigation led to an agreement to reinstate all plaintiffs.

On another school level, *Bennett v. Coslow* was filed when a Houston, Texas high school expelled a student for selling an "underground" student newspaper in school between classes. The student was reinstated.

Mamis v. Cohen was filed when an elementary school student was threatened by his principal for circulating in school a petition critical of the principal. The suit prayed for an injunction against further harassment of the student. A consent order to that effect was recently filed.

VIII. Legislative Investigating Committees

The affirmative litigation technique has been applied to the area of legislative investigations to tremendous advantage. In the past, persons subpoenaed to appear before committees were relegated to suffering contempt citations and raising their objections to the committee's existence by way of criminal defense. Now, by bringing affirmative federal action against the committee prior to the commencement of hearings, witnesses may frame the constitutional issues as broadly as they choose rather than be limited by the outlines of the criminal action and the issues pertinent thereto.

Stamler v. Willis, 287 F. Supp. 734, 89 S. Ct. 395 (1968), and *Krebs v. Ashbrook*, 275 F. Supp. 111 (1967), were the initial cases filed in this manner challenging the constitutionality of the House Committee on Un-American Activities. The LAW CENTER has worked closely with the attorneys responsible for those cases, including Arthur Kinoy, Vice-President of the CENTER. *Stamler v. Willis* and *Krebs v. Ashbrook* both went up to the Supreme Court this year and were remanded for further lower court proceedings on procedural issues. The extraordinary feature of these remands is that motions to dismiss the cases, though filed, were not granted. Thus *Stamler* proceeds in the Seventh Circuit* and *Krebs* in the District of Columbia Circuit.

The LAW CENTER, in cooperation with other civil liberties attorneys and organizations, has filed *Young and Davis v. Willis*, No. 22608 (U.S.C.A., D.C. Cir.), in the District of Columbia on behalf of five persons and the classes they represent who were subpoenaed to appear before HUAC in October, 1968. The Committee was investigating "subversive" influences in the events in Chicago at the time of the Democratic Party Convention. The suit is similar to *Stamler* and *Krebs* but hopefully avoids the procedural problems therein which were pointed out by the Supreme Court. The suit attacks the constitutionality of the HUAC mandate and the Committee's power to investigate into matters protected by the First Amendment. The suit is now in the Court of Appeals in the District of Columbia on review of a dismissal of the action below.

Another Congressional committee, the McClellan Committee, acting in the wake of events leading to *McSurely v. Ralliff* (see *supra* and see 398 F. 2d 817 (1968)), subpoenaed from the Kentucky authorities the SCEF and OEO workers' papers which had been seized pursuant to the raid under the Kentucky sedition statute. LAW CENTER attorneys challenged the validity of the subpoenas which were issued to Kentucky authorities for papers not belonging to them and in their custody only illegally.** The Supreme Court, 88 S. Ct. 845, 1112 (1968), remanded the case to the Sixth Circuit, which ordered that the subpoenaed papers be returned to their owners and that subpoenas for the papers issued to persons other than the owners were invalid.

* Despite the pendency of the affirmative action, contempt citations were issued in *Stamler* (though not in *Krebs*). Injunctive relief against proceeding with the contempt trials was denied. The trials should proceed in early 1969.

** The situation here posed was quite similar to that recounted in *Dombrowski v. Eastland*, 387 U.S. 82 (1967), also a LAW CENTER case, where the Supreme Court ruled that Senator Eastland's Committee Counsel must stand trial for violation of plaintiff's civil rights flowing from a like seizure-subpoena maneuver.

Kentucky enacted a Kentucky Un-American Activities Committee and thereby gave rise to two LAW CENTER suits. The first, *Braden v. Nunn*, No. 18849 (U.S.C.A. 6), was filed just subsequent to the enabling legislation and was dismissed for prematurity by the District Court. The action was reinstated by the Fifth Circuit. *B.U.L.K. v. Miller*, No. 892, Oct. Term, (1968), substantially similar to the Braden action, was instituted subsequent to enactment of the KUAC statute and appointment of the KUAC members, but prior to the Court of Appeals reinstatement of *Braden*. There being no prematurity problem, the three-judge court ruled on the merits, dismissing the complaint. A jurisdictional statement has been filed in the Supreme Court.

In a related field LAW CENTER attorneys in cooperation with others filed *DuBois v. Cark*, No. 734-68 (U.S.D.C., D.C.), seeking an injunction against the Attorney General's proceeding before the Subversive Activities Control Board to have the DuBois Clubs of America listed as a subversive organization. Though the litigation was discontinued, the plaintiffs won an effective victory as the Attorney General failed to press the petition before the Board.

XI. Jury Prejudice

Maryland v. Brown, No. 2116 Criminal (Circ. Ct. Dorchester Co., Md.), raised the novel question of whether the prosecutor can ask for a change of venue to protect the defendant from trial in an impassioned atmosphere where juror prejudice is likely, due to extensive publicity. The State's Attorney of Maryland requested a change of venue in the trial of H. Rap Brown scheduled to be held in Cambridge. The change was to be made into a locale with a much lower percentage of black citizens. The defendant, through his attorneys associated with the LAW CENTER, opposed the change of venue, which was accomplished over his opposition. A removal petition was filed in Maryland federal court contesting the issue and the remand order is being appealed to the Fourth Circuit Court of Appeals.

An almost identical issue was presented in the *Tijerina* state case; there will of course be no appeal on this issue in that case because of the acquittal at the trial court level.

In *State v. Funicello*, Indictment No. 2049-64 (N.J.), the defendant, prior to the LAW CENTER's involvement, was convicted of murder and sentenced to death. LAW CENTER attorneys acting as local counsel in cooperation with the NAACP Legal Defense and Educational Fund, sought to reopen the sentencing, challenging the constitutionality of the death penalty and the exclusion from the jury panel of prospective jurors whose scruples would in no circumstances permit them to impose the death sentence. A stay of execution was granted and the appeal is going to the United States Supreme Court.

Wynn v. Byrne, No. 977, Oct. Term, 1967, was filed to enjoin prosecutions growing out of Newark, New Jersey civil disorders on the grounds that the grand jury was composed on an economically, racially, and geographically biased basis, that its oath is unconstitutional, and that pretrial publicity made a fair trial impossible. The suit has not been effective to halt state court trials.

The case of *Bokulich v. Greene County Jury Commissioners*, Misc. No. 1255, Oct. Term, 1968, is a federal action to enjoin trials in Greene County, Alabama until the jury rolls, discriminatorily composed so as to exclude black citizens, are reformed. A jurisdictional statement has been filed in the Supreme Court of the United States.

X. Voting Rights

Hamer v. Ely (referred to in the First Annual Report under its former title, *Hamer v. Campbell*) posed the precedent-making question concerning the availability of Negro assistants to illiterate Negroes exercising their right to vote. Voting officials in the Town of Sunflower, Mississippi had appointed only whites for that purpose. The case has been argued in the Fifth Circuit and a decision is awaited.

XI. Bail

The most difficult bail problems of the year were raised in relation to all the cases pending around H. Rap Brown. Numerous bail hearings were held across the country raising questions as to the scope and applicability of the Bail Reform Act of 1966 and the impact of the First Amendment on strict bail limitations set on a political leader. These cases are pending on both district and circuit federal court levels. One application for leave to appeal taken to the Supreme Court has been denied.

Excessive bail arguments have also been raised in *Dawkins v. Green, supra*. The importance of these cases involving imposition of excessive bail cannot be over-emphasized. While the past five years have seen the development of more liberal and humane bail laws and policy, the announced policy of the Nixon Department of Justice has been to recommend strongly preventive detention in lieu of bail. Countenancing preventive detention, especially in cases with political overtones, is a dangerous first step in the direction mapped out by Title II of the McCarran Act. See *supra, Bick v. Mitchell*. Thus bail fights will most likely increase in number and severity in the coming months and must be vigorously pressed.

XII. Miscellaneous

A. Fair employment

Reed, et al. v. Chase Manhattan Bank was initiated as a complaint by black employees of the defendant bank before the City of New York Commission on Human Rights. The complaint alleged that the personnel practices of Chase were designed and administered so as to discriminate against black employees and to prevent their advancement within the company. The Commission determined that there was probable cause to find *de facto* discrimination and ordered a full hearing. At that point, the defendant offered to establish a special department for minority group personnel problems within the organization and further adversary proceedings are temporarily suspended.

B. Expunging criminal arrest records

LAW CENTER attorneys filed *Bilick v. Dudley*, No. 67-3315 (U.S.D.C., S.D., N.Y.), a federal action to expunge the arrest records of approximately eighty youngsters who were arrested in a New York apartment on marijuana-possession charges. At arraignment, the charges were all dismissed as there was absolutely no evidence to support them. The gathering was a meeting of young people who were campaigning to establish a Police Civilian Review Board in New York City. The City agreed to expunge all records of the false arrests. The State refused and was upheld in its refusal by a federal district court judge. Appeal is now pending.

C. Abusive police practices

Adams v. Hughes, No. 849-67 (U.S.D.C., N.J.), is a federal suit filed in Plainfield, New Jersey, contesting the mass searches by the National Guard of black people's homes as ordered by State officials. Pretrial procedures are underway. LAW CENTER attorneys have cooperated with ACLU attorneys on this matter.

EDUCATIONAL AND CONSULTANT ACTIVITIES

I. Selective Service And Military Law Panels

Recognizing the need for specially trained attorneys to competently handle selective service and military law cases, the LAW CENTER joined with a California attorney and some few other persons and organizations to establish across the country, in as many cities as possible, panels of attorneys who would train themselves specifically to handle such cases and who would, as a group, apply to the local federal courts for appointment as counsel for indigent selective service law violators. The panels have been established and are fully functioning in over a dozen cities with fast and excellent communication and exchange of information among the various panels as well as within them.

II. District Of Columbia School Board Interim Consultant

Upon the creation for the first time in the District's history of a popularly elected school board, the LAW CENTER was consulted by members of that board and asked to explore the powers and duties it would have as well as the avenues for implementing the decision for quality education of *Hobson v. Hansen*, *supra*. A plan and analysis were presented to the board by the CENTER, which has offered to stand ready to lend further assistance if necessary.

III. Conferences

The Southern Committee Against Repression (SCAR) is composed of the leaders and representatives of various civil rights, civil liberties, and militant political organizations throughout the nation, with special emphasis on the political problems of the poor and the black citizens in the South. The group support joint efforts of the affiliated organizations undertaken to defend against and attack new repressive political and legal developments in the United States. The LAW CENTER has met with and counselled this organization and participates in its monthly or bi-monthly meetings.

The LAW CENTER sent staff attorney representatives to a conference in Puerto Rico to discuss the myriad legal problems of the Puerto Rican independence movement (MPI), arising out of the movement's outspoken policy of seeking independence for the island. Specific attention was given to selective service law and harassing criminal prosecution problems.

Texas SDS and SNCC chapters and the organizers of the Oleo Strut Coffee House in Killeen (Ft. Hood) called a conference of attorneys to discuss the legal defense of political dissidents in the State. A general call to the entire State bar produced approximately 50 lawyers and 100 law students who met for two days with local groups to discuss the legal problems to be faced. The LAW CENTER provided guidance in legal thinking and offered to provide all pleadings and papers available in its files to attorneys who agreed to represent those political dissidents sponsoring the conference.

IV. Packets And Mailings

Continuing its policy of disseminating as widely as possible information regarding the legal techniques developed by the LAW CENTER, the LAW CENTER maintains the practice of mailing papers, pleadings and memoranda to attorneys in the field. The 1967 mailing list of 250 attorneys has now expanded to 500. Eight different packets were distributed last year, containing, among other material:

a) Monthly reports of the LAW CENTER. The monthly report is a docket listing of the current cases and their status in the courts.

b) Legal papers. These included:

1) Complaints in

Grossner v. Columbia University (the Columbia sit-in case)

McSurely v. Ratliff (the challenge to the sedition prosecution in Kentucky)

Billick v. Dudley (federal suit to expunge the arrest records of a group of young people arrested without cause and released at arraignment)

Mississippi Freedom Democratic Party v. Eastland (damage action against Senator Eastland for alleged theft by his agents of certain files of MFDP and the National Conference for New Politics)

2) Briefs in *Cameron v. Johnson*, the petition for rehearing in the Supreme Court and the section of the brief in the Supreme Court addressed to whether 28 U.S.C. 2283 bars injunctions under 42 U.S.C. 1983.

3) Opinions and orders in

Norwalk CORE v. Norwalk Redevelopment Agency (an action in federal court to enjoin the demolition of urban renewal property to build middle income housing on the only land in Norwalk, Conn. available for low income housing; suit alleged that the demolition program did not comply with the federal urban renewal standards and was really an attempt to drive black and poor people out of Norwalk; Second Circuit Court of Appeals held that complaint stated a cause of action)

Hunter v. Allen (motion and order for summary judgment ruling unconstitutional the disorderly conduct ordinance of Atlanta, Georgia)

Harris v. Lee (action by Katy Rorabach of New Haven, Connecticut, challenging press releases of pretrial prejudicial publicity and seeking broad injunctive relief against police harassment; relief against the newspapers was denied; the motion to dismiss made by the police was also denied)

McSurely v. Ratliff (decision of the Sixth Circuit)

Kinoy v. District of Columbia (reversing the conviction of Attorney Kinoy arrested while presenting argument to the House Committee on Un-American Activities)

- 4) Memoranda and explanatory material regarding
Soglin v. Kaufman and *Goldman v. Olsen* (network of cases
growing out of the demonstrations at the University of
Wisconsin)
Harris v. Lee (described above)
Hunter v. Allen (described above)

Enthusiastic responses and expressions of gratitude have been received from many attorneys on the mailing list.

V. Involving Law Students

Continuing its major role to interest law students in becoming involved in the vital work of civil rights and civil liberties litigation, the LAW CENTER in 1968 had four students assigned to it from the Law Students' Civil Rights Research Council, namely: Anne F. Cumings, Beth Livesey, Bryan Thomas, and Carol Ule. The students made a substantial contribution to the work of the CENTER. One of them went to New Mexico and participated actively in the *Tijerina* litigation; another did some of the basic research work in preparation for *Bick v. Mitchell*, challenging provisions of the McCarran Act. Her work has since been published in a law review.*

The LAW CENTER is planning to involve an increasing number of law students — particularly black and Spanish-speaking students — mainly in areas of work which would prepare them to meet the needs of their communities. A perfect example of such work lies in the area of school decentralization. The LAW CENTER has proposed to concerned foundations the funding of a special program for this purpose.

ADMINISTRATION

I. Staff And Office Facilities

The LAW CENTER has continued to occupy office space at 116 Market Street, Newark, New Jersey. During 1968 its staff consisted of the following full-time attorneys:

* "American Concentration Camps: Prospective Challenge of Title II of the McCarran Act", Anne F. Cumings, 48 B.U.L. Rev. 647 (1968).

Dennis J. Roberts: Mr. Roberts is a graduate of Rutgers University and the University of California School of Law in Berkeley (1964). After being admitted to the California Bar, he went to southwest Georgia for two years where he practiced with C. B. King, Esq. He then became the first staff employee of the LAW CENTER.

Harriet Van Tassel: Miss Van Tassel is a graduate of Barnard College and Columbia University School of Law (1966). She is member of the New York Bar. Prior to becoming a LAW CENTER staff attorney, Miss Van Tassel was an instructor at Rutgers University School of Law.

George Logan III: Mr. Logan is a graduate of Rutgers University and Rutgers University School of Law (1967). He is a member of the New Jersey Bar. Mr. Logan was required to leave the LAW CENTER to fulfill an Air Force obligation.

William J. Bender: Mr. Bender is a graduate of Rutgers University and Rutgers University School of Law (1968). He is a member of the New Jersey Bar. Prior to attending law school, Mr. Bender was a field representative with the Division of Civil Rights of the Department of Public Law and Safety of New Jersey.

The LAW CENTER also employed a part-time third-year law student, Michael Sayer, and, in connection with the work in the Tijerina matter, engaged the services of William L. Higgs, Esq. as a temporary staff attorney.

Rita Murphy, an attorney and a graduate student at Rutgers Law School, joined the staff upon an arrangement between Rutgers and the LAW CENTER whereby Miss Murphy has done her field work with the CENTER and the CENTER has funded a part of her fellowship with Rutgers.

116 MARKET ST. NEWARK, N.J.

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John Warren, a graduate of the University of Chicago Law School but not yet a member of the Bar, has been working with the staff of the LAW CENTER.

Mrs. Lillian Green continued to be in charge of the office, assisted for most of the year by another full-time secretary, Miss Sharen Johnson.

N.Y. Arthur Kinoy, William M. Kunstler, and Morton Stavis have been devoting a great deal of their time to the LAW CENTER, the latter also serving as administrative counsel in coordinating the work of the staff and cooperating attorneys. Many other attorneys have been actively engaged in the litigation and other work described above, especially Benjamin E. Smith, Percy L. Julian, Jr., Jeremiah Gutman, Howard Moore, Jr., and Mara Stickgold; John E. Thorne and Irving M. King, who made their services available in the Tijerina litigation; Daniel Crystal and Lawrence J. Gross, who have contributed by research and brief-writing; and Gerald Lefcourt and Arthur Turco, who have assisted particularly in litigation in New York City. N.Y.

II. Relations With Other Organizations

The LAW CENTER has continued to cooperate with other organizations in various phases of legal work, including among others the ACLU, the NYCLU, the NECLC, the National Lawyers Guild, the NAACP Legal Defense & Educational Fund, the Chicago Legal Defense Committee, and the Instituto Legal de Puerto Rico. The LAW CENTER takes this opportunity to express publicly its appreciation to those organizations and to the many attorneys who have assisted and cooperated with it during the past year.

III. Perspectives

It is obvious that the work of the LAW CENTER in the field of affirmative litigation against oppressive prosecutions will expand. The movements of young people and black people, both claiming greater rights to control their future, are being confronted throughout the country with massive legal assaults of an increasingly serious nature. Some of the most serious impending legal problems will be developing in the South, where extremely long sentences are being imposed. The LAW CENTER's experience in litigation in this area continues to open up possibilities to meet new types of legal assaults. The LAW CENTER's corresponding attorneys have found its materials to be particularly helpful and the LAW CENTER intends to continue and expand the dissemination of carefully prepared legal papers showing techniques for restraining oppressive prosecutions.

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The work in the New York City educational area opened an entirely new field of activity for the LAW CENTER. It anticipates continuing this work; more than that, the same fundamental constitutional principles which the CENTER is seeking to apply in the field of education may be applied to employment and housing. If the Thirteenth and Fourteenth Amendments may be made viable affirmative tools to obtain decent education for blacks and Puerto Ricans, then precisely the same constitutional approach may open new vistas for affirmative legal attacks on a wide range of issues affecting blacks, Puerto Ricans, and other minority groups, e.g., inadequate housing, denial of employment at decent wages, destruction of central cities by massive demolitions, etc. The LAW CENTER has been asked to work in this field and in order to do so, staff expansion is required.

Lastly, a new interest is developing in the possibility of structuring legal responsibility for agencies of the federal government which in the field of foreign affairs make a wide range of commitments and undertake a whole series of activities seemingly without public knowledge or legal responsibility therefor. Legal techniques to establish some semblance of governmental responsibility in this area have never been fully explored and the LAW CENTER may look into the fashioning of sound legal approaches to these problems.

Provided that the LAW CENTER is adequately funded, it will be able to develop the programs indicated above.

IV. Finances

The LAW CENTER has worked on an extremely small budget. The extraordinary gap between the available finances and the volume of work reflects in part the high calibre and great dedication of its staff as well as the vast contribution of volunteer services from its many cooperating attorneys.

Attached is the financial statement for the calendar year 1968 showing total expenditures of \$78,937. The requirements of the LAW CENTER, particularly if it is to expand its work as outlined above, will call for a budget for the year 1969 of \$115,000.

Contributors to the LAW CENTER have been concerned individuals and foundations. The LAW CENTER is a tax-exempt organization, as established by letter from the Internal Revenue Service dated November 10, 1966.

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DATE 9/1/87 BY SP7 (Mount Clipping in Space Below)

Detroit Law Firm Offers Aid to Anti-War Soldiers

The firm believes the anti-war movement has taken deep root in the armed forces since 1967.

BY PETER SLAVIN
Free Press Staff Writer

Nearly every day at least one GI walks into a law office, in the New Center area seeking legal help in obtaining a discharge or in defending himself from alleged "harassment" by the military.

In the past 10 months, four lawyers in the firm, quartered in a converted house on Pallister, have handled more than 100 cases for clients in uniform, nearly all of them enlisted men.

The firm helped win dismissal of the charges against the "Ft. Jackson 8," the eight GIs who organized an anti-war group on post. It won acquittal for the editor of an underground newspaper at Wright Patterson Air Force Base in Dayton, O.

The firm, which regularly defends dissident GIs at Selfridge Air Force Base in Mount Clemens, was even asked to go to Vietnam to represent a black GI from Detroit who took part in a stockade rebellion at Long Binh a year ago.

THE FOUR lawyers whose average age is 30, belong to a firm of seven avowedly radical young attorneys, six of whom previously practiced for Detroit's Neighborhood Legal Services.

The firm actually has eight partners. The eighth is a non-lawyer, Mrs. Linda Maas, who does administrative work and provides advice on what cases to take and how to handle them.

According to one partner, Marc Stickgold, the firm was formed a year ago with the intent of giving political support and legal counsel to radical "movement" groups and individuals in trouble with the government.

"I don't think there is an underground newspaper, black liberation or left-wing group of any kind in Detroit that we at one time have not represented," he said.

Stickgold believes the anti-war movement has taken deep root in the armed forces since 1967. He points to some 50 underground newspapers on military bases, to nearby coffeehouses and to stockade uprisings like that staged by the "Ft. Dix 38" last June.

He said that where the anti-war movement went, it was natural for his law firm to follow.

THE FIRM'S charges depend on how political the case and how poor the GI, he said. Most fees are small, and many cases are handled free.

Nationally, he estimated, there are 200 to 300 civilian attorneys who defend GIs. Four organizations of lawyers have been established across the country in their behalf, and "the calls and letters come in by the hundreds," he said.

"There is now a crying need for people who are trained in

military law. As long as that war continues, (the need is) going to grow just geometrically."

Most GIs are non-military

Law Center for Constitutional Rights

lawyers, he said, because they are applying for a discharge, and thus are not entitled to a military lawyer.

GI's who go to Stickgold's firm are usually seeking one of the following four types of discharge:

- Conscientious objector.
- Medical and psychiatric. "A great many people come to us who really have serious emotional problems, either that they had before they went into the military or that the military has developed for them. And (they) cannot see to get any psychiatric assistance, or any consideration in the military."
- Family hardship.
- In lieu of court-martial. These are GI's with psychiatric problems who have gone AWOL or deserted, for whom the firm seeks a discharge instead of a court-martial on the grounds they are unfit for military service.

Stickgold said representing discharge applicants is largely a matter of simply filling forms and dealing with military officials on the phone.

He added that when a civilian lawyer takes a GI's case, the military tends to proceed with his application more as regulations dictate.

"And in many cases, 90 percent of the battle, because as soon as he's processed properly, they come to

realize themselves that he should be discharged. The main complaint that most guys have is that they can't get anybody to listen to what the hell their dispute is."

Mr. Tolson
Mr. DeLoach
Mr. Walters
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

(Indicate page, name of newspaper, city and state.)

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Detroit Free Press
Detroit, Michigan

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Edition: Metro
Author: Peter Slavin
Editor: Mark Ethridge, Jr.
Title:

Character:
or
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Submitting Office: Detroit
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"A VERY large percentage of these people," he added, "want discharges because they have reached a political or moral decision that they can't deal with the military or they're opposed to the war."

The second kind of case the firm handles are what Stickgold calls, "political cases — people who are being court-martialed, demoted, transferred or otherwise harassed for political activity."

GIs turn to civilian attorneys in these circumstances, he said, because they mistrust

military lawyers. They doubt military lawyers will defend them with any ardor, feeling they tend to conform to the military pursuits of discipline, order and efficiency.

Stickgold believes that, because of the pressures on them, military lawyers have little choice but to provide minimal defense of unpopular causes.

"It's very difficult to ask some captain . . . to challenge his colonel's action and call it racist or . . . just call it illegal in any kind of real forthright way," he said.

"We never turn away a political case," he added.

If possible, he said, the firm tries to persuade the military not to court-martial its client in the first place.

STICKGOLD said most political cases result from anti-war activity or racial discrimination in the service and boil down legally to the issues of freedom of expression or equal treatment.

To him, the war and race issues are not separate but part of a single problem. And, he maintains, black and white GIs involved in political cases come to see the connection.

Stickgold said the Pentagon is well aware of the amount of dissent in the armed forces and its reaction to date has been surprisingly liberal. He points to the revised Uniform Code of Military Justice of 1968 and the Army's "Guidelines on Dissent" order of 1969 as significant concessions to the rights of servicemen.

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SUBJECT: EAST COAST CONSPIRACY TO SAVE LIVES (ECCSL)
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SABOTAGE - CONSPIRACY
(OO: PHILADELPHIA)

Re Louisville letter to Bureau, 3/12/69, captioned
"LAW CENTER FOR CONSTITUTIONAL RIGHTS, SM-MISC.," NYfile
100-162180; and HAirtel to Bureau, 12/1/70, captioned as
above.

Re HAirtel directed NY to identify personnel and
organizational structure of Center for Constitutional Rights, 588
Ninth Ave., NYC.

NYO has determined this organization identical to
"LAW CENTER FOR CONSTITUTIONAL RIGHTS, SM-MISC.," NYfile
100-162180.

Review of said file indicates Bureau received as
attachment to referenced Louisville letter [redacted]
in which the organization fully identified itself. For
information, the following is excerpted from [redacted]
enclosure:

- 2 - Bureau (RM)
- 1 - New Haven (100-20708) (RM)
- 2 - Philadelphia (100-51190) (RM)
- 1 - New York (100-162180)
- 1 - New York

REC-5

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Deleted Copy Sent Gregory H. Finger re: CCR
by Letter 3/3/76 p. 1, 2
Per FOIA Request CM

NOT RECORDED

192 JAN 12 1971

Approved: _____

Special Agent in Charge

Sent _____

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY sp [redacted] b7c

58 JAN 13 1971

ORIGINAL FILED IN 100-460495-1230

NY 100-168839

"The Law Center for Constitutional Rights was created in November, 1966, out of the conviction of a group of attorneys who had been active in the civil rights field that there was a need for a legal center dedicated to the development of affirmative legal techniques in which law would be used creatively as a positive social force."

b7D [REDACTED] ReLouisville letter also advised that [REDACTED] the Law Center for Constitutional Rights, 116 Market St., Newark, NJ, and that a review of same reflected that the organization had been involved with numerous litigations on behalf of Left Wing, New Left and draft resistance litigants.

Inasmuch as referenced Louisville letter contained comprehensive information regarding the Law Center for Constitutional Rights, UACB, NYO conducting no further investigation in this matter.


UNITED STATES GOVERNMENT

Memorandum

~~CONFIDENTIAL~~

TO : ACTING DIRECTOR, FBI (14-3079)

DATE: 6/13/72

FROM :  LEGAT, TOKYO (100-731) (P)

SUBJECT: PACIFIC COUNSELING SERVICE (PCS)
IS - RA

LAW CENTER FOR CONSTITUTIONAL RIGHTS

ReBulet 12/20/71, which instructed that investigation of Center for Constitutional Rights (CCR) in New York City should not be conducted.


Consultation

Tokyo has no background information concerning CCR and is not even able to confirm that such an organization actually exists.

The Bureau is requested to furnish Tokyo any available information concerning CCR for Tokyo's information and also to furnish to interested military intelligence agencies

- (1 each 7437)
- 3 - Bureau (Enc. 2) ~~CONFIDENTIAL~~
 - (1 - Foreign Liaison Desk)
 - 1 - Tokyo

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HEREIN IS UNCLASSIFIED

DATE 9/1/87 BY 

REC-30

EX-112

NOT RECORDED
136 JUL 17 1972

JUN 20 1972

*Records place
cc in 100-448821*

NOT Rev. Act. Sec.

ENCLOSURE

ORIGINAL FILED IN 14-3079

XXXXXX
XXXXXX
XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deleted under exemption(s) _____ with no segregable material available for release to you.
- ☐ Information pertained only to a third party with no reference to you or the subject of your request.
- ☐ Information pertained only to a third party. Your name is listed in the title only.
- ☒ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

☐ For your information: _____

- ☒ The following number is to be used for reference regarding these pages:

100-148821 Not Recorded 7-17-72 Enclosure

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X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXXXX

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (100-147952)

FROM : SAC, NEW YORK (100-114002) (P)

DATE: 8/13/73

SUBJECT:

b7c [REDACTED]
IS - CH
IS - RU
(OO:NY)

~~CONFIDENTIAL~~ b7c

DECLASSIFIED BY SP7 [REDACTED]
ON 9/1/87

100-147952-116

b2
b7c
b7D
[REDACTED] (u)
[REDACTED] (u)

On 7/17/73, a review of the Building Directory at 853 Broadway revealed a listing which indicated that the Center for Constitutional Rights, was located on the 14th Floor. Enumerated below this listing were the following names:

853 Broadway, N.Y.
MARK L. AMSTERDAM
ROBERT BOEHM

b7c
④ - Bureau (RM)

(2) (CENTER FOR CONSTITUTIONAL RIGHTS)

- 1 - New York
- 1 - New York
- 1 - New York
- 1 - New York
- 1 - New York
- 1 - New York
- 1 - New York
- 1 - New York
- 1 - New York
- 1 - New York

(CENTER FOR CONSTITUTIONAL RIGHTS)

APPROPRIATE AGENCIES
AND FIELD OFFICES
ADVISED BY ROUTING
SLIP (S) OF [REDACTED]
DATE 8/13/73

EX-117

Deleted Copy Sent
by Letter 3/1/72
Per FOIA Request

Deleted Copy Sent Gregory H. Finger re: REC 53
by Letter 3/3/76 p.1
Per FOIA Request cef

CONFIDENTIAL

100-1148821-13
NOT RECORDED AND
INDEXED BY SP2
123 AUG 20 1973
REASON FOR DENIAL
FOIA II, 1.4(b)(7) C
DATE OF REVIEW
DECLASSIFICATION

F69
55 AUG 31 1973

Buy U.S. Savings Bonds Regularly on the Payroll Savings

ORIGINAL FILED IN 100-147952-2211

NY 100-147952

853 Broadway, NEW YORK, N.Y.

J. OTIS COCHRAN
ARTHUR KINOY
WILLIAM KUNSTLER
DORIS PETERSON
ELIZABETH SCHNEIDER
RHONDA SHOENBROD
MORTON STAVIS
NANCY STEARNS
PETER WEISS

~~CONFIDENTIAL~~

b7c The Building Directory also listed the name
[REDACTED] indicating his office also is located
[REDACTED] However, no organizational affiliation was noted. (u)

b7d
LEAD

NEW YORK

AT NEW YORK, NEW YORK. Will continue to follow subject's activities. (u)

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

Memorandum

TO :

DIRECTOR, FBI

DATE: 10/11/73

FROM :

SAC, NEW YORK (157-10185) (C)

SUBJECT:

CENTER FOR CONSTITUTIONAL RIGHTS
588 NINTH AVE.
NY, NY 10036
EM-AMERICAN INDIAN MOVEMENT

On 5/9/73, a search warrant was issued by the United States Magistrate, Rapid City, South Dakota, for the premises known as the National Wounded Knee Communications Center, 208 North 11th St., Rapid City, South Dakota. On the same date Bu agents assigned to the Wounded Knee special executed that warrant and in the course of the execution of the warrant seized a sizable quantity of records pertaining to the supply and support of participants of Wounded Knee.

The above captioned name appeared on the records and materials which had been seized on 5/9/73 at the National Wounded Knee Communications Center.

A check of NYO indices reflects that the above captioned name appears to be identical with NYfile 176-403 Sub. A; Bufile 176-1594, entitled "WEATHFUG". It is noted in the above file that the Center for Constitutional Rights was an information and contact center for all new leftist groups and organizations. The Center for Constitutional Rights assisted and supported various defense committees that would give aid to all political prisoners.

On 8/18/73, a check was made of the 1973 Manhattan, New York telephone directory and the following information was obtained:

Center for Constitutional Rights
Address: 588 Ninth Ave.
NY, NY
Telephone Number: 265-2500

- ② - Bureau (RM)
- 3 - Minneapolis (RM)
- 2 - New York

Deleted Copy Sent Gregory H. Finger re: CCR 17 OCT 15 1973

By letter 9/3/76 p. 2

Per FOIA Request



5010-108

56 OCT 24 1973

Savings Bonds Regularly on the Payroll Savings Plan

ALL INFORMATION CONTAINED
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DATE 9/1/87 BY SP2

UNRECORDED COPY FILED IN 157-10185-1594

NY 157-10185

The following checks were made for information regarding the subject, but the checks were met with negative results:

1) [REDACTED]

2) [REDACTED]

3) [REDACTED]

b7c
b7D
b7C
b7E
On 8/17/73, a suitable pretext was made by SA [REDACTED] to determine the nature of the Center for Constitutional Rights organization and it was determined [REDACTED], that the above organization is designed primarily to aid the distressed and protect the rights of all individuals. He stated that he could not give any information concerning any extremist activity or movements in the NY area, especially the American Indian Movement.

b7C
A check was made of NYO indices concerning [REDACTED] reflected no identifiable information.

The following sources, who are familiar with extremist activities in the NY area, were contacted during the months of August and September, 1973, for additional information concerning the subject, but negative results were obtained:

b2
b7D
[REDACTED]

In view of the above information the NYO is recommending that this case be closed; however, the case will be reopened if positive information is developed. The NYO will take immediate action.

100-448821-14 **CHANGED TO** 190-10971-X

FEB 24 1987
[REDACTED]


ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY sp2 [REDACTED]

b7c

b7c

100-448821-15 **CHANGED TO** 190-10971-X1
outgoing -15 -X3

FEB 24 1987


ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY 

b7c



b7c

100-448821-16
outgoing -16

CHANGED TO 190-10971-X2
-X4

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY spz 

319

FEB 24 1987


100-448821-17 **CHANGED TO** 190-10971-XS
outgoing -17 -X10

319

FEB 24 1987

b7c

[REDACTED]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY SP2M [REDACTED]

b7c

100-448821-18
-19

CHANGED TO 100-10971-X6
- X9

319

FEB 24 1987

[REDACTED]

b7c

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY SP2 [REDACTED]

b7c

100-448821-20 **CHANGED TO** 190-10971-X11
outgoing -20 -X13

319

FEB 24 1987

b7c

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY sp2

b7c

100-448821-21
CHANGED TO
190-10971-X8

319

FEB 24 1987

b7c

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY sp7 [REDACTED]

b7c

100-448821-22 **CHANGED TO** 190-10971-X7

319

FEB 24 1987

[REDACTED]

b7c

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY SP2 [REDACTED]

b7c

100-448821-23
-24
-25
-26

CHANGED TO 190-10971-X12

-X15
-X16
-X14

319

FEB 24 1987

b7c

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/1/87 BY spt

b7c

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Admin. _____
 Comp. Syst. _____
 Ext. Affairs _____
 Files & Com. _____
 Gen. Inv. _____
 Ident. _____
 Inspection _____
 Intell. _____
 Laboratory _____
 Plan. & Eval. _____
 Spec. Inv. _____
 Training _____
 Legal Coun. _____
 Telephone Rm. _____
 Director Sec'y _____



Supporters of Judge Bruce Wright rally in Foley Square Tuesday.

Foley Sq. rally assails Judge Wright's transfer

By NANDI GUILLAUME

NEW YORK, Jan. 7 — More than 300 supporters of Judge Bruce Wright, the former Criminal Court jurist who was abruptly transferred to New York City's Traffic Court, demonstrated in Foley Square yesterday in a demand for his reinstatement.

Wright had angered racists, who gave him the slanderous name "Cut 'Em Loose Bruce," because he granted minority and financially pressed defendants bail within their economic range. He was attacked for this by the Police Benevolent Association (PBA), and by political bosses.

The demonstration was held on the day on which Wright's transfer was to become effective. The rally, organized by the Center for Constitutional Rights (CCR), drew support from more than 35 community and legal groups.

Danny Alterman, rally moderator and CCR member, read messages from William Kunstler, the Attica Brothers' Legal Defense Committee chairman, and George W. Crockett, Jr., Black Criminal jurist of Detroit.

Among those who addressed the rally was Judge William Booth, former director of the New York City Human Rights Commission, who was the only colleague of Wright's in the city to publicly register his outrage at the transfer.

Others at the rally included State Assemblywoman Maria Runyan; Austin Torres, former

director of the Puerto Rican Legal Defense Fund; James Harris, Jr.; National Association of Black Voters; Ella Baker, Coalition of Concerned Black Americans; Florynce Kennedy; Bonnie Brower, National Lawyers Guild; Lennox Hinds, National Conference of Black Lawyers; Rev. F. Kirkpatrick, and Conrad Lynn, Black attorney.

Commenting on his transfer, which now is under investigation, Judge Wright said, "the judgment my superiors have passed on me has nothing to do with expediting jurisprudence at all. They are treating me like a little boy who has gotten too big for his britches."

He told this reporter that there are over 14,000 bail jumpers annually in New York City alone, and he had always tried to extend to every accused his (or her) constitutional rights while aiding the law by fair consideration of each case.

Judge Booth declared, "There are eight types of bail setting choices available to every judge, but most use only the high priced bond insurance form which more than often results in months and months of detention for defendants who cannot pay."

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 6-5-81 BY SP2000/1
 9/1/89

The Washington Post _____
 Washington Star-News _____
 Daily News (New York) _____
 The New York Times _____
 The Wall Street Journal _____
 The National Observer _____
 The Los Angeles Times _____
 DAILY WORLD Pg. 9

Date 1/8/75

EX 104

REC-29

100-448821-A-
 NOT RECORDED
 7 AUG 6 1975

70 AUG 21 1975 F-485

file



JUDGE BRUCE WRIGHT

He pointed out that this is the type of bail preferred by the FBA.

Austin Torres called for all minority groups to ban together in support of Wright because of his positive record in the courtroom when handling cases of poor and minority people.

All speakers agreed that more and larger demonstrations must be held to prevent racism from denying New Yorkers the right to be tried by this fairminded judge.

The Rev. Kirkpatrick closed the demonstration with his version of "We Shall Not Be Moved."

photograph
NY